



# The Work Couch

NAVIGATING TODAY'S TRICKY PEOPLE CHALLENGES TO  
CREATE TOMORROW'S SUSTAINABLE WORKPLACES

## Episode 12 – Fertility issues and work (part 2): – How to support your people with Jonathan Crompton

**Ellie:** Before we jump into today's episode, we wanted to give our listeners a quick content warning. We'll be discussing fertility challenges, IVF and pregnancy loss, including the impact this can have on a person's physical and mental health, as well as their working lives, which some listeners might find triggering. With that in mind, we would advise listener discretion as to whether you feel comfortable listening to this episode.

Hi, and welcome to the Work Couch podcast: your fortnightly deep dive into all things employment. Brought to you by the award-winning employment team at law firm RPC, we discuss the whole spectrum of employment law with the emphasis firmly on people. My name is Ellie Gelder. I'm a senior editor in the Employment Equality and Engagement team here at RPC, and I'll be your host as we explore the constantly evolving and consistently challenging world of employment law and all the curve balls that it brings to businesses today. We hope by the end of the podcast, you'll feel better prepared to respond to these people challenges in a practical, commercial and inclusive way. Please do join the conversation and hit the subscribe button to make sure you don't miss any of our episodes.

We know that unfortunately the journey to pregnancy is often not a smooth one, with research from the World Health Organisation reporting that around 17.5% of the adult population, that's roughly one in six worldwide, experience infertility. So today we are shining a light on those challenges, how they can affect someone at work and what businesses can do to support people. And we're going to explore this from the perspective of the non-childbearing partner, whose experiences are often overlooked by employers. And I'm delighted to be joined on the Work Couch once again by Jonathan Crompton, partner in our Hong Kong office. Hi Jonathan, thank you so much for joining me.

**Jonathan:** Hi Ellie thanks for having me.

**Ellie:** So last week, in the first part of our series on fertility challenges and work, we talked about your own personal experience, Jonathan and your fertility journey so far, the impact it had on you at work and why it is so important to open up the conversation around fertility. And today, in part 2, we're going to look at how organisations can implement effective support for those employees who are affected by fertility challenges.

Jonathan, I'd like to start by asking you about your perspective as a manager and how you encourage people to open up and approach you for support and equally how can managers feel best equipped to have those conversations which can be difficult.

**Jonathan:** What I have learnt most about making people feel more comfortable about having these conversations I have learned through my personal experiences. We at the firm have had a fertility coach come to the firm and give a presentation, which is great. Again, I think that's quite progressive. But I think we should be doing more to provide training, but running an organisation, there is always, we always need to be conscious about cost. But one of the first things we can be doing is creating the role of a fertility officer and somebody who's been through a fertility challenge or experienced pregnancy loss themselves actually would be quite sensitive to other people coming to talk to them about the difficulties they're having in the workplace. And again, that creates an avenue for conversation for somebody who is experiencing the difficulty if they want to have that conversation. It also provides what I think is probably a necessary buffer. It's quite often in, if a firm or an organisation has a fertility policy, there's quite often a trigger in there. So how can you, how are you entitled to time off? Were you entitled to time off because you're going through the treatment or because you are, you've experienced very sadly, pregnancy loss. But how does anybody know that? Well, are you requiring people to report to their line managers about the fact that they've experienced pregnancy loss? I think the role of a fertility officer is you can have it in a team, you can have it in an office, but it provides a buffer and somebody sensitive that, your employees can talk to and say, I need to tell you, I need to take time off please

can you just tell people that you understand and you know why and I don't want them asking me questions. So having the role of fertility officer means that not only do you have that avenue for people to trigger the policies that you have, it means that they can discuss the policies that you have so build awareness for them. Also, from a purely financial point of view, actually you're defining the number of people that should be receiving the training in the first place. So, you can quantify what the financial impact would be to the business, because you quantify the number of fertility officers and therefore how many people are going to receive the training. So, I think having a fertility officer is a very useful role. I think having policies is important and having a pregnancy loss policy is important, having fertility treatment policies is important, but you just having them isn't enough. You need to publicise them, so people know where they are and you need to implement them. They shouldn't just be statements of contractual position, but they need to be a statement of the support that you're giving people. So, for example, are you putting them on a dedicated intranet page for people to find the policies, look at the policies, and also on the same page, you can have links to support, you can have links to Fertility Matters at Work, to Tommies, to all these other resources.

**Ellie:** And you're based in Hong Kong, so I just wanted to ask you about where you are on the journey there in opening up this topic to wider conversations and how that compares to other countries like the UK.

**Jonathan:** It's actually quite hard for me to give a proper comparison because I've been in Asia for over 15 years, so I can't necessarily talk about what it's really like in the UK because I haven't been an employee in the UK for a very long time. But what I am seeing is that there is a lot more conversation being had in the UK than there is in Hong Kong. I think there probably is more of a stigma in Hong Kong and other places in Asia about talking about fertility challenges, about fertility treatment, about pregnancy loss. But it's not that people aren't going through fertility treatment. So the Council on Human Reproductive Technology in Hong Kong reported that the number of people going through IVF nearly doubled from 2009 to 2018. In 2018 there were just under 8,000 women going through IVF. And I say women because the way that the treatment process works out here is it is very much focused on the woman. So I'm not trying to exclude anybody from this. It's just the way that they count the figures out here. So we have to do a lot of work opening the conversation. And that's one of the things that I'm trying to do on my Mini Crusade is open up the conversation in Hong Kong in the same way as it's starting to open up in the UK.

**Ellie:** And it's brilliant that you're on your crusade and opening up that conversation, Jonathan, it's brilliant. Just going back to the ways that employers can help support people, we've talked about having policies on pregnancy loss and fertility treatment. And as you say, it's no good just having them, you need to actually implement them. You need to communicate to people that you have those policies in the first place. I just wanted to ask you about sort of other golden rules in having fertility policies.

**Jonathan:** What I think the starting point for having a fertility policy is, is not looking at what is required by law. Because quite frankly, the law in most countries on fertility loss and fertility, sorry, pregnancy loss and fertility treatment is pretty dire and isn't, doesn't support people in the way that they need to. The starting point for looking at fertility policies should be Who are we as people and who are we as an organisation? If somebody were to come to me and say that they had gone through a pregnancy loss, a miscarriage, they'd lost their pregnancy at any stage, whether it's early stage or late stage, again, that shouldn't be graded, but if someone were to come to me who would I want to be in responding to them? What kind of support are we giving to our people? Not what is required by law, what is the minimum standard being set by our competitors, but who are we as people supporting our people? And that then trickles down into many different aspects of fertility policies. So base the fertility policies on what you want to provide your people, whether it's them feeling comfortable in asking for time off because they need it to grieve, to go for scans, to go for egg extraction or implantation. Really as, an owner of the business, I want people to feel able to talk to me about that so that I can say, yes, absolutely. That's fine. Please go ahead. And for me to be able to make accommodations for that rather than them holding it in and me thinking that they're not necessarily doing their job for no good reason. So actually, I would much rather that people see them as supportive and setting the landscape that we should be setting. Part of that is being very careful about the wording. How will the policies be read and received by those reading them? So, for example, if somebody is not aware that there is a pregnancy loss policy before suffering pregnancy loss, they go through the horrible situation of having a pregnancy loss and then they read the policy, what is it that they are taking from it? So, does the policy say that they are entitled to maternity or paternity leave from a certain trigger date? But if they don't hit that trigger date, then they're not entitled to it. They're entitled to a different amount. We can still provide for different numbers in terms of the time off that we're giving people, but what are we calling it? And are we triggering emotions in our people by being a bit insensitive in the language by referring to a different policy? So, but that all I think comes down to what it is we want from our policies. And instead of just setting a baseline because we think we need them, if we treat them as an area for supporting our people, I think we'll then approach them in a different way. And, and let's be very clear about this pregnancy loss, fertility treatment, fertility challenges, they suck, and they suck hope.

	And if we are creating an environment which makes fertility treatment, a source of hope instead of a stigma. That can only help.
<b>Ellie:</b>	And a key ingredient of a fertility policy will be how much time off affected employees can take. And as you mentioned, that might be different for different circumstances because there isn't a legal right to this as yet, is there?
<b>Jonathan:</b>	There is not and as far as I am aware, there is not yet in the UK, although there is a fertility treatment employment rights bill that has been presented, which is great in the UK. There is not a legal right to time off for fertility treatment, certainly in Hong Kong. So, the law does not provide the support that we should be providing and therefore our policies should be at least a starting point for providing that support. And if we base it on the current state of the law, we will be letting our people down.
<b>Ellie:</b>	Yeah, absolutely. And, and sadly, much like the Miscarriage Leave Bill, which we discussed on our last episode on pregnancy loss, the Fertility Bill is unlikely to progress either. So, as you say, the law is not the starting place here. And there are a growing number of employers, including RPC, going ahead and increasing support for affected employees regardless of there not being any law on it, which is a positive step in the right direction.
<b>Jonathan:</b>	It absolutely is. And it's a question of who you are as an organisation, what is your culture? And the firms that certainly I've seen putting in place policies like this, or at least being vocal about putting in place policies like this are firms that are very keen to promote the fact that they have a positive culture, but it makes good business sense as well, because people who are treated well will be more loyal to the organisation. They'll be more likely to stay. And, the digital healthcare app, Peppy, which sadly is not quite available in Hong Kong yet, but is available in the UK says that 90% of employees who face fertility challenges will change job for a company that has fertility benefits. So just taking that in a second, if we are not providing fertility benefits to our people, we are likely to lose them. I've said that I would rather know that somebody is going through this so that I can help them. And I would rather they ask what our policies are. And it's better to have somebody come to you and say, can you please tell me what our fertility policies are? Because if they don't ask you, they might be thinking it and they may simply leave.
<b>Ellie:</b>	So apart from time off, what else can employers think about introducing to support people affected by fertility issues?
<b>Jonathan:</b>	<p>We've touched on a few of them. So having the policies there more to support people than explain how much or how little time they can take off. That's number one. Having information available. So having the fertility policies in a place where people can go and actually learn and understand., building awareness in the workplace. We've talked about fertility officers. I think that's quite an easy thing for people, for organisations to put in place. And that will then build up awareness. There's obviously staff training, there's flexible working. And I have to say that through the fertility treatment that we've been having, I have largely been working flexibly or I've just applied for medical leave. Now that's easy for me to say as a partner in the business, whereas if you're an associate or a trainee, it might be slightly harder, but that's how I've been approaching it, but through COVID we've learned that we can be a lot more flexible and understanding with our people. So, let's just carry that on, for situations in which they need it, for example, the need to attend appointments for scans or the need to take a bit of time off or be at home in the morning because they're either injecting themselves with hormones or because they are injecting their partner with hormones. But there are other things that you can do including providing access to fertility coaches. Some organisations provide access to counsellors for mental health reasons to allow people to talk about the challenges that they're having. You could extend that to grief counsellors and pregnancy loss grief counsellors, but you can also extend it to fertility coaches who can give people who are going through fertility journeys, somebody to talk to, partly to give them some suggestions about how they might maximise their chances, but also really just to give somebody someone to talk to.</p> <p>And then there's the question of money. Fertility treatment is incredibly expensive. Medical insurance policies tend to have triggers for what they cover and what they don't. A lot of them tend to treat fertility treatment as elective and I've already mentioned that I personally don't think that it is elective. It's needed because of medical circumstances. They may cover treatment that's needed as a result of a miscarriage or pregnancy loss. But it might not. So, number one, have conversations with healthcare insurers about what they're prepared to cover and what we don't really want them to be excluding expressly such as fertility treatment. I realise that's a bit of a long-term wish of mine, but it's something that we should be discussing with healthcare insurers. And then even if healthcare insurers aren't going to cover the cost, should an organisation consider covering part of the cost of fertility treatment? I'm in a very privileged position because I'm more senior that I can afford to pay for fertility treatment, but not everybody can. I'm not saying every organisation needs to pay</p>

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for fertility treatment or part of it. But if an organisation wants to support its people, it should at least have a conversation about whether it should cover part of that cost or whether it should support employees in different ways.

**Ellie:** I want to pick up on the statistic [from audio: please delete the bit "that I mentioned earlier"] that 6% of partners experienced unfair treatment following pregnancy loss. So how should organisations deal with those colleagues who might not be so supportive? How can they be brought on board?

**Jonathan:** There are various extremes of people not being supportive. I don't think most people are unsupportive of pregnancy loss because they just don't care or because they're being malicious. I think most people probably just don't know what to say.

And that's why, an intranet site with a list, either a link to websites that have lists of what to say and what not to say, or, actually including a list there itself, I think are quite important. Like I said, the fertility journeys are very personal and even somebody who themselves have gone through, uh, fertility treatment should not be imposing their solution on somebody else who is going through it. So there's a number of things that people could say about IVF. For example, if there's a failed cycle, they'll say, well, it's okay because 20% fails, but then the percentages increase over time. That's insensitive and it's imposing a solution that is not necessarily needed. With pregnancy loss, there's, there can be quite a common tendency for people when they hear about pregnancy losses to try to play down the pregnancy loss, to try to make the person who suffered that pregnancy loss feel better. So, one example I've heard of is secondary pregnancy loss, which is where somebody's already had a child and then miscarries in subsequent attempts saying, "Oh, well, it's okay. Cause you have your one baby." That's incredibly insensitive. but where it comes from, I think is that people are trying to be supportive. So what can we do to deal with colleagues who are not so supportive? Well, the first thing we can do is educate them. We can provide a resource for them. For them to understand that it's okay to say, I'm really sorry about that. I honestly don't know what to say. I would like to make you feel better, but please just tell me what I can do to help, if anything. That in itself is probably the best answer that anybody could give to anyone, because what it shows is that you're sympathetic. You do genuinely feel sorry for them, but you're not trying to make yourself feel better. You're not trying to make them feel better. You just want to be there for them when they're needed. So having a, resource where people can look up what they should be saying or not be saying is helpful. Probably more importantly though, is I think setting the tone and expectation from the top, not demanding people behave a certain way, but leading by example and partners or management starting to be open, explaining to people what kind of environment and culture they want in the workplace and opening up about their own experiences so people realise that it's more common than other people might expect. I think that would send a very important message.

**Ellie:** Absolutely, so as you say, by starting those discussions at senior levels and then it can feed, hopefully feed down through the wider culture of the organisation.

We've spoken about signposting people to resources that they can access for more information so I just wanted to flag some of those: first of all, [Endometriosis UK](#) which is a fantastic website where you can find out more about this condition and access support. More generally, [Fertility Network UK](#), [The Miscarriage Association](#) and [Tommy's](#) all of which are brilliant organisations to go to for further advice and support on this subject.

Thank you so much Jonathan for joining me today and for sharing your experiences so honestly and openly and practical tips on how businesses can implement better support for people on their fertility journeys.

**Jonathan:** Thank you very much Ellie.

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**Ellie**

If you'd like to revisit anything we discussed today, you can access transcripts of every episode of the Work Couch podcast by going to our website. That's [www.rpc.co.uk/theworkcouch](http://www.rpc.co.uk/theworkcouch). And if you have any questions for me or Jonathan, or perhaps ideas of topics you'd like us to cover in the future, please get in touch by emailing us at [theworkcouch@rpc.co.uk](mailto:theworkcouch@rpc.co.uk).

Now, the Work Couch is going to take a brief summer break over August, but we will be back in September. So, a great opportunity to catch up on any previous episodes you may have missed. So, we've got a library of 12 fantastic episodes covering a really wide range of employment law topics with our fabulous lawyers and equally fabulous external guests. You can access these by searching for the Work Couch on iTunes, Spotify or Acast. We hope you enjoy catching up and that you'll join us again in September.



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